

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

NOTICE OF APPEAL

The Kostin Co., a customer of Bernard L. Madoff Investment Securities LLC and a claimant, by and through its attorneys, Morgan, Lewis & Bockius LLP, hereby appeals under 28 U.S.C. Section 158(d) to the United States Court of Appeals for the Second Circuit (the “Second Circuit”) from the Court’s “Memorandum Decision and Order Granting, to the Extent Set Forth Herein, the Trustee’s Motion for an Order Affirming the Trustee’s Calculations of Net Equity and Denying Time-Based Damages” (ECF No. 5463) (the “Order”) (Exhibit 1) entered in the above-captioned action on September 10, 2013. On September 20, 2013, numerous parties jointly requested that the Court certify the Order for direct appeal to the Second Circuit pursuant to 28 U.S.C. Section 158(d)(2). See Request for Certification (ECF No. 5488) (Exhibit 2).

In the alternative, and in the event the Second Circuit does not authorize a direct appeal of the Order, the Kostin Co. appeals the Order to the United States District Court for the

Southern District of New York pursuant to 28 U.S.C. Section 158(a)(1). Although the Order is final and appealable pursuant to 28 U.S.C. Section 158(a)(1), to the extent it should be deemed interlocutory, the Kostin Co. requests that this notice be deemed a motion for leave to appeal for the reasons set forth in the Request for Certification (Exhibit 2) or that they be permitted to file a motion for leave to appeal. See Bankr. R. P. 8003(c); 28 U.S.C. § 158(a)(3).

Dated: New York, New York
September 24, 2013

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /S/
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